IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Arbitration Case No.51 of 2006

Date of Decision: 26 - 11 - 2007

M/s Punjab Agro Industries Corporation Ltd. ....Petitioner

through Mr.Munish Singal , Advocate

v.

Inderjit Singh ....Respondent

through : None

CORAM: HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE (ORAL)

On the last date of hearing no body was present on behalf of the respondent. Even today no body is present on behalf of the respondent. No reply has been filed on behalf of the respondent. It seems that the respondent is not interested in pursuing the present petition.

The present petition has been filed for appointment of an Arbitrator. The arbitration clause is at page 105 of the paper-book which is to the following effect:-

"35. All differences and disputes between the parties hereto on any clause or matter herein contained or their respective rights, claims or

liabilities hereunder or otherwise, howsoever, in relation to or arising out of this agreement, shall be referred to arbitration by two Arbitrators (one to be appointed by each party) who shall, before proceeding with the reference, appoint an Umpire and such arbitration shall be governed by the Indian Arbitration Act, 1940 or any modification or re-enactment thereof for the time being in force."

Notice dated 26.12.2000 was served by the petitioner on the respondent inter alia invoking arbitration Clause 35 of the Financial Collaboration agreement dated 30.3.1995 indicating that in terms of the said clause, the petitioner has appointed the arbitrator and the respondent should also appoint the arbitrator. No reply was received of the said notice.

The petitioner filed a petition under Section 11 of the Arbitration and Conciliation Act, 1996 in the District Courts at Chandigarh. In view of the judgment in **M/s. S.B.P. & Co. v. Patel Engineering Ltd. and another**, (2005)8 SCC 618, the District Judge, Chandigarh transferred the present petition to this Court.

On receipt of the case in this Court on transfer, notice of the petition was issued to the respondent. On 17.5.2007, Mr.Ashok Sharma, Advocate put in appearance on behalf of the respondent and sought adjournment. At his request, the matter was adjourned to 10.9.2007, on which date no body appeared on behalf of the respondent, however, in the interest of justice the matter was adjourned to today. Today again no body appeared on behalf of the respondent. It appears that the respondent is not interested in pursuing his cause in this Court.

On going through the file, I find that the respondent had filed reply to the petition when the matter was pending in the Court of District Judge, Chandigarh, but in the said reply, no reason has been assigned as to why the Arbitrator was not appointed.

Since no body has put in appearance on behalf of the respondent nor

any explanation has been put forward as to why the respondent has not appointed the arbitrator, therefore, I appoint Justice G.C.Mittal (retired Chief Justice) as the sole Arbitrator to adjudicate upon all the disputes between the parties.

The Arbitrator shall fix his own fee.

The intimation of appointment be sent to the Arbitrator.

Petition stands disposed of.

(VIJENDER JAIN)
CHIEF JUSTICE

November 26, 2007

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